Sanders BURNETT – Free Man of Color
Johnston County NC 1790

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The 1790 census is a valuable tool for researching free families of color. Its final column asked only for "all other free," distinct from the preceding columns counting white males and white females. Sanders BURNETT appears in that census as the head of a household of twelve[1], and all twelve members of that household are recorded in the "all other free" column, indicating that Sanders BURNETT was a free man of color. Some researchers have connected Sanders BURNETT to Alexander BURNETT of North Carolina, proposing Sanders as his son. That identification is difficult to sustain Alexander BURNETT was a white man with no documented presence in Caroline County, VA, only in North Carolina, while the 1790 census record shows Sanders BURNETT and his entire household enumerated as "all other free," the classification reserved for free people of color—not for white families. This paper proposes instead that Sanders BURNETT came from Caroline County, VA, and may have "descended" from John and Lucretia BURNETT of Essex County, VA. The word descended appears in quotation marks because families of color may or may not share a DNA relationship with a white family of the same surname.

Understanding this family requires some background on the laws of Virginia governing people of color at the time. Children born of white mothers and African American fathers occupied a distinct legal class: the law permitted them to be held in servitude only until age thirty-one, at which point they were to be freed as a white person. This provision generated frequent litigation, since masters were often unwilling to relinquish able-bodied servants in the prime of their working years[2]. The term mulatto itself appears in English print as early as the sixteenth century—the 1595 work Drake's Voyages used it to describe the children of intimate unions between Europeans and Africans[3]—and the Oxford English Dictionary later defined it as "one who is the offspring of a European and a Black."[4] Under the law, a child could be removed from the mother and bound out to another caretaker as soon as the child was weaned and able to survive without maternal care[5].

These laws shaped events in Caroline County, VA, where, in 1751, several lawsuits were filed concerning a mulatto family. Reconstructing such a family requires identifying everyone connected to it, to determine where each member stood before gaining freedom. The individuals at the center of these cases were Charles NODEN and the following mulatto family members: Chloe, Dinah, Swany/Sanders, Doll, Sarah, and Scilla BURNETT.

On 12 APR 1751 in Caroline County, VA, the court ordered the churchwardens of St. Margaret's Parish to bind out Dinah, Cloe, Swany/Sanders, and Doll BURNETT, mulatto children, according to law[6]. That same day, the court granted Eliza NODEN administration of the estate of her late husband, Hugh NODEN, Gent., with Peter COPELAND, James MARTIN, and Rice CURTIS, Jr. standing as her securities on the bond[7]. Peter COPELAND's name is significant here: he was connected to the Gatewood family, which in turn was tied to the family of John and Lucretia BURNETT. Copeland was married to Elizabeth GATEWOOD, daughter of Richard GATEWOOD and Patience REEVES; Richard GATEWOOD was the brother of Amy GATEWOOD, who married John BURNETT II[8], son of John and Lucretia BURNETT[9].

On 12 JUN 1759, Dinah sued her master, Charles NODEN, in Caroline County court; NODEN failed to appear[10]. The following month, on 12 JUL 1759, the court ordered his arrest for "removing Dinah, Peter, Swany/Sanders, Doll, Sarah and Scilla BURNETT" out of the county[11]. By 10 SEP 1762, when the court moved to attach his estate, Richard WOOLFOLK reported that he held nothing belonging to NODEN[12].

Taken together, these records indicate that the family had been servants of Hugh NODEN, and that they were still children when he died. His son and heir, Charles NODEN[13], apparently attempted to remove them from the Colony of Virginia to keep them as his own, prompting the court to issue a writ to stop him. NODEN nonetheless succeeded in taking the family with him when he relocated to Northampton County, NC, where he made a will, proved in MAY 1765 with Richard WOOLFOLK as executor, leaving his slaves to his family.

That will, written 20 DEC 1764 and proved in the May 1765 court, left 400 acres and the enslaved family for the maintenance of NODEN's wife and three daughters until the children came of age. He left Charles WOOLFOLK a silver watch and shoe buckles, and Richard WOOLFOLK £10 to buy a suit of mourning. His executors were his wife, Richard

WOOLFOLK, and John GOODLOE; the will was witnessed by James HOLDERNESS, Thomas STEWART, James ELLIOT, and John WEBB[14].

The family's later history can be traced forward to Sanders BURNETT himself. On 8 AUG 1783, Saunders BURNET of Johnston County, NC, received voucher number 1189 for nine pounds for militia service during the Revolution[15] [16]—a record on which proven descendants should be able to base SAR or DAR applications. By 1787, both Doll BURNETT[17] and Sanders BURNETT[18] were living in Johnston County, NC, as free people of color.

The evidence gathered here is consistent with Sanders BURNETT of Johnston County, NC, descending from a mulatto family with roots in Caroline County, VA, brought to North Carolina by Charles NODEN before his death there. Whether Sanders BURNETT is a BURNETT by DNA remains an open question that only Y-DNA testing can answer—a male descendant bearing the BURNETT surname would need to test at www.familytreedna.com. What can be said with confidence is that he was not the son of Alexander BURNETT of North Carolina: Alexander was white and is documented only in North Carolina, with no presence in Caroline County, VA, while Sanders BURNETT and his household were enumerated in 1790 as "all other free," the free-people-of-color classification. The Caroline County origin proposed here is the more consistent explanation given the available evidence. No Northampton County or Johnston County record has been found naming this individual between Noden's 1765 will and Sanders BURNETT's 1783 appearance in Johnston County; the connection proposed here rests on the convergence of surname, free-person-of-color status, and Noden's documented relocation to North Carolina, rather than on a continuous documentary chain.

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[1]1790 Federal Census Johnston County, NC.
[2]Dangerous Woman: Elizabeth Key's Freedom Suit - Subjecthood and Racialized Identity in Seventeenth Century Colonial Virginia www.uakron.edu .
[3]https://en.wikipedia.org/wiki/Mulatto
[4]Ibid.
[5]"DOWERED AND BOUND OUT: Widows and Orphans Under the Law", Microsoft Word - Syllabus.Dower.docx www.scgsgenealogy.com .
[6]Caroline County, VA Order Book 1746-1754, Part Three 1750-1752, pg. 251.
[7]Ibid.

[8]1704-1707 Essex County, Virginia Deed & Will Book 12, Part 2; [John Frederick Dorman]; Page 328, Will of John Gatewood, also the Reeves Project https://thereevesproject.org/data/tiki-index.php?page=Reeves_Patience_3258
[9]Essex County Will, Deed and Order Book 13 pp254-255 Essex County Courthouse Tappahannock VA.
[10]Caroline Order Book 1759-1763, pg. 91.
[11]Caroline Co., Va, Order Books 1746-54, 251; 1759-63, 153.
[12]Caroline Order Book 1759-1763, pg. 369.
[13]"Race, Sex, and the Freedom to Marry: Loving v. Virginia", Author: Peter Wallenstein, University Press of Kansas, Lawrence, Kansas, 2014, Repository, Rice University Fondren Library, 6100 Main St, Houston, Texas. Book is also online at Google Books, Race, Sex, and the Freedom to Marry: Loving v. Virginia - Peter Wallenstein - Google Books.
[14]Northampton Co NC Will Book 1; p.120, Will 80.
[15]North Carolina Revolutionary Pay Vouchers, 1779-1782, https://familysearch.org/ark:/61903/1:1:Q2WT-PN7S, Burnet, Saunders.
[16]https://freeafricanamericans.com/revolution.htm
[17]Ancestry.com, database/record 5721:3005, Doll BURNETT entry, 1787 (subscription required), https://www.ancestry.com/discoveryuicontent/view/5721:3005
[18]Ancestry.com, database/record 5721:3005, Sanders BURNETT entry, 1787 (subscription required), https://www.ancestry.com/discoveryuicontent/view/5721:3005